

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION

In re:

CAREMERICA, INC.

Debtor

CASE NO. 06-02913-8-JRL

Chapter 7

JAMES B. ANGELL, CHAPTER 7 TRUSTEE,

Plaintiff,

v.

Adversary Proceeding

No. 08-00174-8-JRL

BER CARE, INC., et al.,

Defendants.

MOTION TO DISMISS PLAINTIFF'S COMPLAINT

NOW COME Joseph Alex Cannon, Jr., Cher Cannon, Diversified Enterprise, Inc., and Dona H. Burrell, defendants in this adversary proceeding, by and through undersigned counsel, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and Rule 7012 of the Federal Rules of Bankruptcy Procedure, move to dismiss the Plaintiff's Adversary Proceeding.

In support of said motion, Defendants refer and hereby incorporate the Memorandum of Law filed on November 4, 2008 on behalf of Defendants First Eastern, LLC and Powell Properties of Durham County, LLC.

This the 13th day of January, 2009.

EVERETT, GASKINS, HANCOCK & STEVENS, LLP

/s/ William P. Janvier

William P. Janvier

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **MOTION TO DISMISS PLAINTIFF'S COMPLAINT** has been served upon each of the parties listed below by placing copies of the same in the United States mail, postage prepaid:

Attached Mailing Matrix

This the 13th day of January, 2009.

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